

EXHIBIT 3

1 UNITED STATES DISTRICT COURT
 2 FOR THE NORTHERN DISTRICT OF OHIO
 3 EASTERN DIVISION

4 IN RE: NATIONAL) MDL No. 2804
 5 PRESCRIPTION OPIATE)
 6 LITIGATION) Case No.
 7) 1:17-MD-2804
 8)
 9 THIS DOCUMENT RELATES TO) Hon. Dan A.
 10 ALL CASES) Polster
 11)

12 Sunday, May 5, 2019

13 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
 14 CONFIDENTIALITY REVIEW
 15

16 Videotaped Deposition of MEREDITH B.
 17 ROSENTHAL, Ph.D., VOLUME 2, held at Robins
 18 Kaplan LLP, 800 Boylston Street, Suite 2500,
 19 Boston, Massachusetts, commencing at
 20 8:04 a.m., on the above date, before
 21 Michael E. Miller, Fellow of the Academy of
 22 Professional Reporters, Registered Diplomate
 23 Reporter, Certified Realtime Reporter and
 24 Notary Public.

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1 PROCEEDINGS

2 (May 5, 2019 at 8:04 a.m.)

3 THE VIDEOGRAPHER: We're now on
4 record. My name is Vince Rosica. I'm
5 a videographer for Golkow Litigation
6 Services. Today's date is May 5th,
7 2019, and the time is 8:04 a.m.

8 This video deposition is being
9 held in Boston, Massachusetts in the
10 matter of National Prescription Opiate
11 Litigation, MDL No. 2804 for the
12 Northern District of Ohio, Eastern
13 Division Court.

14 The deponent is Meredith
15 Rosenthal.

16 Counsel will be noted on the
17 stenographic report.

18 The court reporter is Mike
19 Miller and will now swear in the
20 witness.

21 (Witness sworn.)

22 MR. SOBOL: Before you begin, I
23 think the professor had one quick
24 update.

25 THE WITNESS: Yes. Remember

1 yesterday you were asking me about if
2 I had testified in other litigation
3 related to opioids, and I knew that I
4 had been retained in a case, and I
5 could not remember whether I had
6 actually testified. So I looked that
7 up, and indeed, sometime around five
8 years ago, not recently enough to
9 appear in the case captions that I
10 list at the back of my CV, I testified
11 in a matter related to Actiq, the
12 Cephalon drug.

13 MR. ROTH: You anticipated my
14 very first question.

15 THE WITNESS: Excellent.

16 MEREDITH B. ROSENTHAL, Ph.D.,
17 having been previously duly sworn,
18 testified as follows:

19 BY MR. ROTH:

20 Q. What was the nature of your
21 expert opinion in that case?

22 A. I did a damages analysis for
23 class certification proceedings.

24 Q. And was it limited to a single
25 manufacturer?

1 baseline percentage, that delta is capturing
2 how that defendant's promotion relates to the
3 aggregate average; is that right?

4 MR. SOBOL: Objection, asked
5 and answered.

6 A. As we discussed earlier, I
7 don't use the table in that way. I'm using
8 it to narrow the aggregate by excluding
9 individual defendants.

10 And when I do that, for
11 example, to exclude Aventis, just as an
12 alphabetically first choice, I am excluding
13 ultimately the effect that I observe in the
14 econometric model of Aventis' marketing,
15 whether that generates sales for its product
16 or someone else's product.

17 MR. ROTH: Okay. I think with
18 that I am done for the time being.
19 It's been a pleasure. I believe
20 Mr. Metz has some questions, so I will
21 be passing the microphone to him. And
22 I can't promise I won't come back,
23 depending on what else happens, but
24 thank you so much.

25 THE WITNESS: Okay. Thank you.

1 THE VIDEOGRAPHER: The time is
2 1:56 p.m. We're now off record.

3 (Recess taken, 1:56 p.m. to
4 1:58 p.m.)

5 THE VIDEOGRAPHER: The time is
6 1:58 p.m. We're back on the record.

7 EXAMINATION

8 BY MR. METZ:

9 Q. Good afternoon, Professor
10 Rosenthal.

11 A. Good afternoon.

12 Q. My name is Carl Metz. I
13 represent Cardinal Health, which is one of
14 the distributor defendants in this case.

15 A. I apologize for forgetting the
16 name of your employer as it were.

17 Q. That's all right. You're
18 referring to testimony yesterday where you
19 were asked about the distributor defendants,
20 you named two companies, and the third name,
21 Cardinal, eluded you. Yes?

22 A. Exactly, yes.

23 Q. Okay. At various places in
24 your report, you refer to marketing
25 defendants, correct?

1 significant dummy variable in Model C, it
2 wouldn't necessarily be the case that that
3 variable would exist in the but-for world.

4 BY MR. METZ:

5 Q. Okay. So to -- if I could
6 strip that down to a more relatable
7 statement.

8 You're postulating a but-for
9 world in which the State of Ohio's General
10 Assembly does not enact the statute that we
11 just looked at?

12 MR. SOBOL: Objection,
13 mischaracterizes her testimony.

14 A. I don't know about the specific
15 law, but many of those events, including the
16 state medical board guidelines, which appear
17 to interact with the law, are posited by
18 plaintiffs to have been caused by the conduct
19 of defendants.

20 MR. METZ: Why don't we go off
21 the record.

22 THE VIDEOGRAPHER: The time is
23 3:26 p.m. We're now off the record.

24 (Recess taken, 3:26 p.m. to
25 3:33 p.m.)

1 MR. SOBOL: Nothing further.

2 MR. ROTH: No follow-up here.

3 THE VIDEOGRAPHER: That
4 concludes the deposition of Meredith
5 Rosenthal. The time is 3:36 p.m., and
6 we're now off the record.

7 (Proceedings recessed at
8 3:36 p.m.)

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